2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Strengthening implementation of article III of the Treaty on the Non-Proliferation of Nuclear Weapons

Working paper submitted by the United States of America

Handling the proliferation challenges that we, the parties to the NPT, face requires a robust IAEA safeguards system that not only helps to protect our common security against nuclear proliferation, but also builds confidence that peaceful nuclear development is not being abused. Safeguards are therefore essential to facilitating peaceful nuclear programs. As President Bush stated last year, "we must ensure the IAEA has all the tools it needs to fulfill its essential mandate." Making the Additional Protocol the verification standard and establishing a special safeguards committee of the IAEA Board of Governors are two key ways to strengthen international safeguards and provide the IAEA with much needed support and access.

An effective, transparent export control regime also helps build confidence among states that assistance provided for peaceful nuclear development will not be diverted to illegal weapons purposes. Yet, recent developments and revelations are troubling. The spread of enrichment and reprocessing technology poses a particularly dangerous risk. Collectively, we need to address urgently the very real security implications of the further spread of these technologies. Some countries, such as Iran, are seeking these facilities, either secretly or with explanations that cannot withstand scrutiny. We dare not look the other way. As President Bush has proposed, tighter controls should be adopted on enrichment and reprocessing technologies. We must close the loopholes in the Treaty that allow the unnecessary spread of such technologies. This can be accomplished without compromising truly peaceful nuclear programs, and in a manner that ensures that NPT parties that have no such facilities and are in full compliance with the Treaty are able to acquire nuclear fuel at a reasonable price.

The United States suggests the following language on Articles III for use in the Main Committee II report and in any Review Conference Final Document.

Article III
(IAEA safeguards — export controls — supplier measures)

1. The Conference urges all NPT parties to comply strictly with their safeguards obligations and to actively assist the IAEA in resolving questions or difficulties that arise in the application of safeguards.

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2. The Conference encourages strong political and financial support for the rigorous implementation of IAEA safeguards and calls upon all states to provide the IAEA with credible information relevant to compliance with safeguards obligations.

3. The Conference reaffirms that all NPT NNWS that have not done so should bring into force at the earliest possible date the safeguards agreement required by Article III.4 of the NPT and thereby come into compliance with that Treaty obligation.

4. The Conference underlines the need for universal adherence to the IAEA Additional Protocol and calls upon all NPT parties that have not done so to bring a Protocol into force at the earliest possible date.

5. The Conference believes that implementation of the Additional Protocol is a key standard by which to measure a party's commitment to its nonproliferation obligations under the NPT, and that the Protocol should become an essential new standard in the field of nuclear supply by the end of 2005.

6. The Conference endorses efforts to strengthen the ability of the IAEA to ensure that nations comply with safeguards agreements, including through the adoption of a Special Committee of the Board of the Governors.

7. The Conference considers that any state under investigation by the IAEA Board of Governors for unresolved safeguards violations should not participate in decisions by the Board regarding its own cases, while retaining the right to address the Board in connection with such an investigation.

8. The Conference believes NPT parties should cooperate with the IAEA at all times and grant any access requested by the IAEA, consistent with the relevant safeguards agreement, for purposes of facilitating confidence through enhanced transparency.

9. The Conference urges full support for IAEA efforts to obtain a full explanation of nuclear programs being investigated for possible safeguards violations, encourages NPT parties to act immediately when called upon by the IAEA Board of Governors to provide additional information or access in such cases, and requests the IAEA Director-General to keep the Board of Governor's fully and currently informed of any such investigation.

10. The Conference affirms the importance of decisions by the IAEA Board of Governors on early provision of design information and notes that construction of secret nuclear facilities by NPT NNWS would constitute non-compliance with NPT Article III. It states further that such non-compliance would be magnified by a lack of transparency, delay or deception in providing information about these facilities once they are uncovered.

11. The Conference recognizes that a report to the UN Security Council on safeguards violations is required by Article XII.C of the IAEA Statute whenever the IAEA Board of Governors calls on a state to remedy any safeguards non-compliance that the Board finds to have occurred. It also urges the Board to provide such a report in the event that it finds that the IAEA is not able to verify that there has been no diversion of nuclear material required to be safeguarded to nuclear weapons or other nuclear explosive devices.

12. The Conference believes that any report by the IAEA Board of Governors to the UN Security Council regarding questions of compliance with safeguards should be submitted to the Council in a timely fashion. It recognizes that the IAEA must proceed with care and diligence in order to conduct a thorough investigation of safeguards problems, but concludes that protection of the security of NPT parties and enforcement of the NPT is served by prompt reporting.

13. The Conferences urges the IAEA to act swiftly in conformity with its Statute to halt technical assistance and seek its return from any IAEA member that fails to remedy noncompliance with an IAEA safeguards agreement in a reasonable time period. The IAEA Board of Governors should consider a suspension of technical assistance for any members under investigation for such noncompliance. Persistent violations of safeguards agreements should lead to a suspension of the rights and privileges of membership as permitted under the Statute.

14. The Conference notes that NPT parties have entrusted matters vital to their security to the IAEA and to its Board of Governors. It emphasizes that NPT parties have a right to expect the IAEA and the Board of Governors to conduct investigations of noncompliance not only fairly and objectively, but also vigorously, thoroughly, and promptly.

15. The Conference understands that urgent measures are needed to curtail the spread of enrichment and reprocessing facilities, which are known to have been sought secretly by four NPT parties to date, in pursuit of nuclear weapons and in violation of the Treaty. Until appropriate measures are in place, it would be prudent for supplier states not to undertake new initiatives involving the transfer of such equipment and technology to additional states.

16. The Conference affirms the need to assure a reliable supply of nuclear fuel at reasonable cost to NPT parties that are in compliance with the Treaty and their safeguards obligations, which possess civil nuclear power reactors, and that do not pursue enrichment and reprocessing capabilities.

17. The Conference believes that nuclear material, equipment and technology should be supplied only to NNWS that have all their peaceful nuclear activities under IAEA safeguards and are in full compliance with their nuclear nonproliferation obligations, including safeguards. It believes that NPT parties in compliance with the Treaty should receive preferential treatment over non-NPT parties in regard to assistance to their peaceful nuclear programs.

18. The Conference recognizes the importance of effective controls on nuclear-related dual-use items. Such items should not be transferred to any NNWS for any nuclear explosive activity or an unsafeguarded nuclear fuel cycle activity, or to any state if there is an unacceptable risk of diversion to such an activity, or if the transfers are contrary to preventing the proliferation of nuclear weapons, or when there is an unacceptable risk of nuclear terrorism.

19. The Conference urges that nuclear export controls be strengthened to take into account the possibility that nuclear-related equipment, material or technology could be diverted to terrorists. Exporters should ensure that recipients have in place effective physical protection of relevant nuclear material and facilities. Strong controls should also be applied to the export of radiological materials to ensure their use only for peaceful purposes.